रजिस्ट्री सं० डी 221 REGISTERED No. D. 22

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग 2—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 59] नई दिल्ली, सोमवार, दिसम्बर 18, 1967/अग्रहायण 27, 1889
No. 59] NEW DELHI, MONDAY, Dec. 18, 1967/AGRAHAYANA 27, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following report of the Select Committee on the Bill further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period was presented to Lok Sabha on the 18th December, 1967:—

COMPOSITION OF THE COMMITTEE

Shri Bibhuti Mishra—*Chairman*

MEMBERS

2. Shri S. M. Banerjee
3. Shri Rup Nath Brahma
4. Shri C. K. Chakrapani
5. Shri J. K. Choudhury
6. Shri V. N. Jadhav
7. Shri Mushir Ahamad Khan
8. Shri D. K. Kunte

9. Shri Mohan Swarup
10. Shri Jugal Mondal
11. Shri A. Nesamony
12. Shri Nihal Singh
13. Shri Kashi Nath Pandey
14. Shri D. N. Patodia
15. Shri Bhola Raut
16. Shri N. K. Sanghi
17. Shri Sharda Nand
18. Shri Shashi Bhushan
19. Shri S. Supakar
20. Shri G. Viswanathan
21. Shri Mohd. Shafi Qureshi.

LEGISLATIVE COUNSELS

1. Shri K. K. Sundaram, *Additional Legislative Counsel, Ministry of Law.*

2. Shri S. Harihara Iyer, *Deputy Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRIES

1. Shri G. C. L. Joneja, *Commissioner, Civil Supplies, Ministry of Commerce.*

2. Shri K. L. Pasricha, *Joint Secretary, Ministry of Food, Agriculture, Community Development and Cooperation (Department of Food).*

3. Shri R. Balasubramanian, *Joint Secretary, Ministry of Food, Agriculture, Community Development and Cooperation (Department of Food).*

4. Shri K. P. Jain, *Chief Director, Sugar and Vanaspati Directorate (Department of Food).*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill* further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period, was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill annexed thereto.

2. The Bill was introduced in Lok Sabha on the 14th November, 1967. The motion for reference of the Bill to Select Committee was moved by Shri Mohd. Shafi Qureshi, the Deputy Minister in the Ministry of Commerce, on the 29th November, 1967 and was discussed on the 29th November and 6th December, 1967 and was adopted on the 6th December, 1967.

3. The Committee held five sittings in all.

4. The first sitting of the Committee was held on the 8th December, 1967 to draw up a programme of work. At this sitting the Committee were apprised of the importance of the Bill which seeks to replace the two Ordinances issued on the 16th September, and 21st October, 1967 by the Government to provide for more effective implementation of the provisions of the principal Act and to augment sugar production in the country. In view of the fact that the said Ordinances, in terms of article 123 of the Constitution, would cease to be operative unless enacted by Parliament during the current session, the Committee felt the need of completing the consideration of the Bill and make a report thereon in a record time.

5. The Report of the Committee was to be presented within a week. As this could not be done, the Committee requested for extension of time for presentation of their Report upto the 18th December, 1967, which was granted by the House on the 11th December, 1967.

6. Two memoranda were received by the Committee from the Federation of All India Foodgrain Dealers' Associations, Delhi and the Federation of Indian Chambers of Commerce and Industry, New Delhi, on the Bill which were circulated to the members.

7. A point regarding the Constitutionality of the Bill was raised before the Committee. It was contended that clause 7 of the Bill in

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 14th November, 1967.

so far as it relates to the forfeiture of property to Government was *ultra vires* of article 31 of the Constitution which prohibited the State from acquiring any property save by authority of a law providing for compensation. It was suggested that the Attorney-General might be called to give his expert opinion in the matter before the Committee.

It was explained on behalf of Government that, as forfeiture of property to Government under clause 7 was only in the nature of a penalty, it did not attract article 31(2). In this connection, attention of the Committee was drawn to the provisions of article 31(5) which clearly laid down that nothing in clause (2) of article 31 shall affect the provisions of any law which the State may make for the purpose of imposing a penalty.

In regard to the restrictions envisaged in other provisions of the Bill, it was urged that Fundamental Rights relating to property and trade were not absolute and were subject to limitations laid down in article 19(5) and (6) of the Constitution. As the restrictions contained in the various provisions of the Bill could not be said to be unreasonable restrictions, provisions of the Constitution relating to Fundamental Rights were not infringed.

In view of this explanation, the Committee did not consider it necessary to call the Attorney-General.

8. The Committee considered the Bill clause-by-clause at their second, third and fourth sittings held on the 12th, 13th and 14th December, 1967, respectively.

9. *Clause* 3.—While considering this clause, the Committee felt that, with a view to safeguarding the interests of the parties whose books of accounts and documents were seized by the state authorities, some time-limit might be fixed within which the books of account and documents should be returned to the parties concerned. The Minister-in-charge assured the Committee that adequate provision in this regard could be made in the Orders to be issued by the Central Government under section 3 of the principal Act. The Committee trust that Government will ensure that this is done.

10. *Clause* 7.—The Committee considered at length sub-clause (a)(i) of clause 7 which sought to apply the penal provisions of the Act to all persons contravening the Orders made under section 3 of the principal Act, irrespective of whether they had contravened the Orders knowingly, intentionally or otherwise. While granting that the provision for punishment of persons without *mens rea* having been proved is stringent, the Committee appreciated the Government's view that in most cases it was difficult to prove *mens rea*, with

the result that persons who committed offences against the Act could escape scot-free. The Committee accordingly did not consider it necessary to amend the clause.

11. The Committee considered and adopted the Report on the 15th December, 1967.

12. Although the Committee are aware of the wide powers being sought to be conferred on the Executive under the various clauses of the Bill, it has not been considered advisable to tone down the rigour of these clauses in the context of the prevailing conditions in the country. Accordingly, the Committee have not made any amendment in the Bill. While the Committee appreciate the laudable object underlying the Bill, *viz.*, curbing of activities of unsocial elements, nevertheless, they would like to sound a note of caution to the Executive who should, in the course of the exercise of the powers under the proposed legislation, ensure that innocent persons are not subjected to harassment on purely technical grounds.

13. The Committee recommend that the Bill, as it was introduced in the House, be passed.

NEW DELHI;
The 15th December, 1967.

BIBHUTI MISHRA,
Chairman,
Select Committee.

MINUTES OF DISSENT

I

The Bill seeks to make the penal provisions under the Essential Commodities Act, 1955 more stringent and the implementation thereof more effective. The original Act contains stringent provisions but still black marketing is rampant. The present Bill seeks to enlarge the scope of the original Act to enable confiscation of all essential commodities and to make offences under the Act cognizable. It also seeks to provide for minimum sentence of imprisonment for habitual offenders, punishment of offences even without *mens rea*, extension of the operation of the Act and summary trials thereunder till 31-12-1967.

2. There can be no doubt that offences under the Essential Commodities Act are anti-social and deserve severe punishment. But I cannot reconcile myself to the inflicting of severe punishment where there is no culpable intention or knowledge of the accused. Though the businessmen are by and large responsible for black marketing, the officials who are responsible for checking black marketing are not always free from blemish. Complaints that big black marketeers escape detection and punishment and small and innocent fries are caught in the net are not altogether baseless. Corruption in the supply department is not unknown. Some Magistrates—though their number may not be large—are not above suspicion. The fact that big fishes escape and small fries are netted is not always due to any flaw in the law, and rarely on account of the inability of the prosecution to establish the *mens rea* of the accused.

3. In the course of the discussion on clause 7 of the Bill, cases, where perfectly innocent men might come within the mischief of the penal provisions of the Act and might be sentenced to rigorous imprisonment for five years, were discussed. It is for this reason that in para 12 of the Report it has been stated:

> "While the Committee appreciate the laudable object underlying the Bill, *viz.*, curbing the activities of unsocial elements, nevertheless, they would sound a note of caution to the Executive, who should, in the course of the exercise of the powers under the proposed legislation, ensure that innocent persons are not subjected to harassment on purely technical grounds."

Pious wishes or notes of caution to the executive are no substitutes for words of safeguard of the innocent in the legislation itself.

4. Under the law of the land, the prosecution has to prove the case against the accused beyond reasonable doubts and a culpable intention or knowledge is usually one of the essential ingredients. This Bill seeks to make an exception to this sound principle of jurisprudence on the ground that black marketing is a heinous crime. The Bill provides for heavier punishment for offences and also seeks to make fundamental changes in the procedure also. Persons are to be tried summarily where the Magistrate may pass a sentence of imprisonment for a term not exceeding one year, though in summary trials under the Criminal Procedure Code, the maximum punishment can be an imprisonment for three months only. There is, further, no appeal in cases of conviction for imprisonment for a period not exceeding one month and a fine not exceeding two thousand rupees or both, where the case is tried summarily. Ordinarily the maximum punishment will now be imprisonment for five years *plus* confiscation of the property *plus* an order prohibiting the accused from carrying on business in essential commodity for six months. Let us imagine a case, where an honest businessman refuses to oblige a corrupt official of the supply department or/and a corrupt magistrate. He can be ruined in no time—with conviction, forfeiture and suspension of business not to speak of a ruined reputation or goodwill in business. The minimum safeguard to such persons is the retention of the requirement of *mens rea*, which was there in the previous Act.

5. In its Objects and Reasons, the Bill does not say how and why persons escape punishment on the plea that the offences were not committed by them deliberately. How many persons have escaped conviction on such plea?

6. Therefore, in my opinion, the words 'or otherwise', occurring in clause 7 (lines 31-32, page 4 of the Bill) should be omitted so that persons, who find themselves to have contravened an order under section 3 without knowledge or intention may not find themselves in jail for five years. Confiscation, if any, should be sufficient punishment—though undeserved in some cases—for them.

NEW DELHI;
The 15th December, 1967.

S. SUPAKAR
G. VISWANATHAN

II

When Government proposed to bring this draft Bill before the House, it should have taken care to see that the term "Essential Commodity", as defined in the original Act, should have been restricted only to such commodities as are essential and also in short supply and amended the definitions section accordingly. Otherwise, the said definitions do not convey any reality. There would be many more commodities which are essential and not included in the list while the list contains commodities which may not be essential. The reality lies in including commodities which are in short supply. From this point of view, (a) (vi) of Section 2 as well as (a) (x), for example, should have really been deleted from the list of Essential Commodities as there is no question of short supply today. The whole list, in short, under the heading "Essential Commodities" needs a careful revision. The Government not having done it, leaves an impression that the amending Bill has been brought without taking into consideration the whole problem as such. My amendments were ruled out on the ground that the original section or part of it could not be amended. I do not agree with this ruling especially so because two new definitions (c) and (e) have been added to the original list of definitions under Clause 2 of the Bill. To my mind, the procedural position is that in case the original section is not being amended, then no amendment to the original section could form part of the amending Bill.

2. The commodities to be included under the heading "Essential Commodities" should be very restricted in number and extent. To include sugar in such a list is really a tragedy. Sugar ought to be really not included in the rationing system at all. This would have made the position easier and not landed the honest citizen or the Government into any difficulty or complications. When sugar production was going beyond the normal requirements and there was sugar enough to be exported, it is a well-known fact that the Government laid restrictions on the extra production and not being satisfied with this, it levied a sort of a fine on the extra quantity. The result was that sugarcane in some places was burnt down and in the following years the crop pattern was modified. For years together the factories have been storing sugar, the godowns overflowing as the Government was not able to lift the same. It is the wrong Government policy which led to the short production of sugar. What the Bill is trying to do is really a hardship on the honest citizen.

3. Clause 3 is trying to widen the scope of Section 3(1) by making a fetish of securing essential commodities for the defence of India or the efficient conduct of military operations. Defence of India could mean anything as it happened under the Defence of India Act, 1939. In those days the then Government had some justification as the British were fighting a very big war. Today there is no justification for this. Secondly, if the military operations were against any foreign power, one could have understood the scope of the original clause being extended.

4. The vague manner in which the scope is being extended gives unlimited authority to the State and its subordinate offices to issue any arbitrary powers. This should not have been done.

5. The amendments proposed in Clause 7 are in fact amending the Penal Code. Under the Penal Code for the proof of any offence "mens rea" is necessary to be proved. Indian jurisprudence is based on the assumption that an accused person is innocent till he is proved to be guilty and for proving one to be guilty his intention to commit the offence must be proved. Clause 7(a) is giving a go-by to the salient principle of the Indian Penal Code and the corresponding clauses make this more rigorous.

NEW DELHI; D. K. KUNTE.
The 16th December, 1967.

III

I, a member of the Select Committee to which the Bill further to amend the Essential Commodities Act, 1955 and to continue the Essential Commodities (Amendment) Act, 1964, for a further period, was referred, express my dissent to the Report, as the Committee failed to appreciate that more stringent the laws are, more is the corruption and distress. Moreover, there is no justification for a large number of commodities being brought under the purview of this Act when large-scale recession is threatening the very economy of the country. It is really a denial of justice when the penalty provides for confiscation of carriers. The Committee has ignored the accepted principle of jurisprudence by rejecting the proposed amendment for deleting the words "or otherwise" in clause 7(a)(i) after "knowingly or intentionally". This would lead to victimization and is against fundamental justice.

NEW DELHI; N. K. SANGHI.
The 16th December, 1967.

IV

I am constrained to append a Minute of Dissent to the Report because the Select Committee have failed to recognise the fact that it was not the lack of power in the hands of the Government for prevention of unsocial activities like hoarding, profiteering etc. in the country but the lack of will on the part of the administration which has been responsible for encouraging blackmarketing, excessive profiteering and putting the community to ransom for its day-to-day need. The big business community, in connivance with, and aided by, the administrative machinery of the Government, has been sucking the blood of the common man. Hoarding has been rampant under the nose of the Government yet, no steps were taken to check this malpractice much less to eliminate it. This state of affairs has been recognised by the Chief Ministers at their Conference held in July, 1967 at New Delhi. This is what the "Statement of Objects and Reasons" to the Bill has to disclose when it says that "the penal provisions under the Essential Commodities Act, 1955 should be made more stringent and their implementation made more effective". This recognition on the part of the Chief Ministers and bringing of this Bill before Parliament prove to the hilt that the Central Government and its machinery is incapable of delivering the goods. What is needed at the moment is not the power which is being sought under the present Bill but the effective implementation of the Essential Commodities Act.

In such a state of affairs it is fraught with dangerous consequences to confer wide powers on those who are incapable of exercising such powers properly.

2. The provision for summary trials was there in the principal Act for quite some time but this procedure seems to have hardly been used against the big business sharks. It is my experience that so far, if this power has been used at all, it has been used to harass small fries only. Now clause 10 of the Bill seeks to extend this power upto the 31st December, 1969. The Committee has not made any comments on this aspect of the matter. It is no use giving wide powers to the executive when such powers are not used for the purposes for which they are taken.

3. While the Committee felt the necessity of providing some safeguard to the interests of the parties whose books of accounts and documents were seized by the State authorities but nothing was done by the Committee in this behalf. Rather the Committee left the matter there on the assurance given by the Minister-in-Charge that adequate safeguards would be provided in the Orders to be issued under Section 3 of the principal Act. It would have been

better and more effective if some time-limit would have been provided for in the Bill itself instead of leaving it to the executive, to incorporate such a provision in the Orders.

S. M. BANERJEE.

NEW DELHI;
The 17th December, 1967.

V

Legislation of the nature proposed by the Government in the Bill will be *ultra vires* of the Constitution as it seeks to take away the Fundamental Rights of a citizen. In a recent judgment of the Supreme Court in the matter of C. Golaknath & others *versus* the State of Punjab, the Hon'be Chief Justice and other judges of the Supreme Court held that Parliament will have no power from the date of the judgment (27th February, 1967) to amend any of the provisions of Part III of the Constitution so as to take away or abridge the Fundamental Rights enshrined therein.

While giving the above verdict the learned judges proceeded on the premises, namely, that (a) the Constitution is intended to be permanent and, therefore, it cannot be amended in a way which would injure, maim or destroy its indestructible character. (b) The word "amendment" implies such an addition or change within the lines of the original instrument as will effect an improvement or better carry out the purpose for which it was framed and it cannot be so considered as to enable the Parliament to destroy the permanent character of the Constitution. (c) The Fundamental Rights are part of a basic structure of the Constitution, and, therefore, the said power can be exercised only to preserve rather than to destroy the essence of those rights.

The verdict is, therefore, clear which pointedly prevents the Parliament to bring in any such legislation which seeks to restrict or take away the Fundamental Rights of a citizen irrespective of considerations like social justice or otherwise.

2. Section 7 of the Bill mainly provides for the following amendments :

(a) A man is liable to be convicted if he "contravenes knowingly, intentionally or otherwise."

(b) In case of a second or subsequent offence the court shall impose a sentence of imprisonment which shall not be less than one month.

(c) Where a person having been convicted of an offence under sub-section (a) is again convicted of an offence under that sub-section.....the court.....shall direct that that person *shall not* carry on any business in that essential commodity for such period, not being less than six months, as may be specified by the court in the order.

The effect of this amendment will be that in the event of subsequent offence, even though the offence is committed unknowingly or unintentionally, the Act will provide for a minimum punishment of imprisonment for not less than one month and of suspension of business in that commodity for not less than six months. The provision has been made mandatory and the court has no option to reduce or revoke either the term of imprisonment or the term for suspension of business.

This clause goes beyond the scope of general law and is in contradiction even to the Penal Code. The Penal Code and the General Law provide, firstly, that the offence has to be committed knowingly or intentionally and, secondly, that the court is the appropriate authority to determine the extent of punishment which should be awarded to meet the ends of justice.

3. The new Act, which the Government proposes to bring through this legislation by making wide and sweeping amendments over the original Act will be undemocratic and confiscatory by its very nature attacking on the Fundamental Rights of the citizen in several ways. The Bill is like a war-time legislation which seeks to empower administration with all sorts of over-riding and bureaucratic powers, justified or unjustified.

4. The principal changes that the Bill seeks over the original Act by way of various amendments are the following:

(a) The Bill seeks to enlarge the list of commodities and articles to be covered under the Essential Commodities for the purpose of this Act and items like cattle fodder, coal, components and accessories of automobiles, cotton and woollen textiles, manufactured products of iron and steel, paper, raw cotton and raw jute have also been included within the purview of this Act. It is inconceivable as to how and why such commodities have to be included in the legislation of this nature which is primarily meant for commodities considered essential for life like food-stuffs, edible oils etc. The very purpose of this enactment is defeated if it is expected to cover a wide range of

commodities of such a nature and instead of acting as a genuine preventive, it will become a positive obstruction to free trading activities of a citizen who, unaware of large number of technicalities provided in the law, will be exposed to all sorts of offences on petty technical grounds. The doors of corruption shall be wide opened and the intensity of oppression by the police and similar levels of administration will be further increased.

(b) Another important change that the bill seeks by making an amendment in the previous Act is to provide for conviction of a person even when he contravenes any section of the Act unknowingly or unintentionally. Looking at this amendment particularly with the background of a large number of commodities being covered by the proposed enactment as stated in (a) above, it will be an extraordinary piece of legislation which seems to empower the administration even beyond all understandable limits. The extent of oppression by the police and other administrative departments of the Government is known to every citizen in the country and, similarly, the extent of increase in the police oppression in the event of this amendment being enacted can also be well visualised. It will empower administration to punish a person even if he commits an offence unknowingly or unintentionally. The sanctity of justice which says that let 99 culprits go unpunished but let not one innocent be convicted will be polluted. The effect of this legislation will be that let 99 innocents be convicted but let not one culprit go unpunished. The legislation of this nature will go against the very spirit of justice and democracy.

(c) By another amendment to the original Act, this Bill, in the event of subsequent offence, seeks to provide more stringent punishment of (i) minimum one month's imprisonment and (ii) suspension of business in that commodity for six months. Any such legislation could have been justifiable, if at all, had it been made applicable only in respect of a restricted number of commodities and articles which are essential for life such as food and edible oils. There is no justification whatsoever in enacting such a piece of legislation which covers practically everything under the sky. It becomes still more stringent when a subsequent offender shall be punished irrespective of whether the offence is committed knowingly or unknowingly, intentionally or unintentionally.

(d) Another amendment seeks to enlarge the power of confiscation by providing that in addition to the commodities in respect of which an offence has been committed, any packages, covers or receptacles in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall be forfeited to the Government. If this part of the legislation is enacted, it would amount to innumerable hardships at various points. Commodities and articles are transported and transhipped at various points through various agencies in good faith without knowing the contents of the packages and without knowing whether the packages are being transported in contravention of any of the Acts. It will set in a chain of working problems and the transport or handling agencies will stand exposed for carrying such articles which are subsequently found to be in contravention of the Act. A bullock cart carrying a bag of rice or a truck carrying a bag of sugar will become liable to be seized and confiscated under this legislation. In any event, no attempt has been made either to justify or to explain such an amendment which seeks to forfeit and confiscate the carriers and containers in addition to the commodity.

(e) The period of operation of this Act as provided in the Bill would be upto 31st December, 1969. In view of the over-riding powers and the confiscatory nature of this legislation, a period of two years will be too much without any justification.

5. The Bill suffers from two serious setbacks, namely, (a) the working of various controls and other restrictive legislations of the Government over the past few years have completely failed to achieve the desired objectives of either keeping the price level under control or of fair distribution of the commodity. On the other hand, all such legislations have caused hardship to the society, helped in raising the price level and permitted the entire fabric of the society to get demoralised. Enquiries conducted by various institutions, including Administrative Reforms Commission, have conclusively revealed that various controls and the methods of distribution enforced by the Government have failed to achieve the desired objective and have only proved to be the cause of hardship to the society. The report of a study team of the Administrative Reforms Commission has gone to the extent of suggesting that all restrictions on movement and distribution even on the essential commodities are needed to be removed rather than to be more

severely imposed. The legislation which the Government seeks to enact through this Bill will, on the other hand, impose much more restrictions and administrative controls covering a much wider range of commodities which will only help in bringing more misery to the people and more corruption into the administration.

6. The Bill possibly proceeds with the premises that it is only the administration which is capable of curbing dishonesty and bringing social order. The truth however is something different and it is precisely such levels of administrative units who have to operate these legislations which are corrupt causing serious social hardship and disorder. Legislation of this nature gives an impression that having failed to achieve the desired objective, instead of taking corrective measures, the Government, in its desperate attempt, is only seeking to grab more and more dictatorial and militant powers to establish its authority over the society.

7. The entire Bill and its various clauses are, therefore, ill-conceived, anti-social and undemocratic. I am unable to support this legislation and would urge upon the Hon'ble Members of Parliament to prevent any such legislation from becoming an Act.

NEW DELHI;
The 18th December, 1967.

D. N. PATODIA

Bill No. 153-A of 1967

THE ESSENTIAL COMMODITIES (SECOND AMENDMENT) BILL, 1967

(AS REPORTED BY THE SELECT COMMITTEE)

A

BILL

further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Essential Commodities (Second Amendment) Act, 1967. Short title.

Amendment of section 2.

2. In section 2 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), 10 of 1955.—

(*a*) after clause (c), the following clause shall be inserted, namely:—

'(*cc*) "order" includes a direction issued thereunder;';

(*b*) after clause (*d*), the following clause shall be inserted, namely:—

'(*e*) "sugar" means—

(*i*) any form of sugar containing more than ninety per cent. of sucrose, including sugar candy;

(*ii*) khandsari sugar or bura sugar or crushed sugar or any sugar in crystalline or powdered form; or

(*iii*) sugar in process in vacuum pan sugar factory or raw sugar produced therein.'.

Amendment of section 3.

3. In section 3 of the principal Act,—

(*a*) in sub-section (*1*), after the words "at fair prices", the words "or for securing any essential commodity for the defence of India or the efficient conduct of military operations" shall be inserted;

(b) in sub-section (*2*), in clause (*j*), the following shall be inserted at the end, namely:—

"and of any books of accounts and documents which in his opinion would be useful for, or relevant to, any proceedings under this Act and the return of such books of accounts and documents to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in the manner specified in the order have been taken.";

(*c*) after sub-section (*3B*), the following sub-section shall be inserted, namely:—

'(*3C*) Where any producer is required by an order made with reference to clause (*f*) of sub-section (*2*) to sell any kind of sugar (whether to the Central Government or a

State Government or to an officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has been issued under sub-section (*3A*) or any such notification, having been issued, has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section (*3*), there shall be paid to that producer an amount therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to—

(*a*) the minimum price, if any, fixed for sugarcane by the Central Government under this section;

(*b*) the manufacturing cost of sugar;

(*c*) the duty or tax, if any, paid or payable thereon; and

(*d*) the securing of a reasonable return on the capital employed in the business of manufacturing sugar,

and different prices may be determined, from time to time, for different areas or for different factories or for different kinds of sugar.

Explanation.—For the purposes of this sub-section, "producer" means a person carrying on the business of manufacturing sugar.'.

Amendment of section 6A.

4. In section 6A of the principal Act,—

(*a*) for the words "foodgrains, edible oilseeds or edible oils are seized", in both the places where they occur, the words "essential commodity is seized" shall be substituted;

(*b*) for the words "they may", the words "it may" shall be substituted;

(*c*) for the words "may order confiscation of the foodgrains, edible oilseeds or edible oils:", the words "may order confiscation of the essential commodity so seized:" shall be substituted.

Amendment of section 6B.

5. In section 6B of the principal Act,—

(*a*) for the words "any foodgrains, edible oilseeds or edible oils", the words "any essential commodity" shall be substituted;

(*b*) for the word "articles", in both the places where it occurs, the words "essential commodity" shall be substituted;

(*c*) for the words "they are seized", the words "it is seized" shall be substituted.

Amendment of section 6C.

6. In section 6C of the principal Act, in sub-section (*2*),—

(*a*) for the words "return the foodgrains or edible oilseeds or edible oils seized", the words "return the essential commodity seized" shall be substituted;

(*b*) for the words "as if the foodgrains, edible oilseeds or edible oils, as the case may be,", the words "as if the essential commodity" shall be substituted;

(*c*) for the word "articles", the words "the essential commodity" shall be substituted;

(*d*) for the words, brackets, figures and letter "and such price shall be determined in accordance with the provisions of sub-section (*3B*) of section 3", the following shall be substituted, namely:—

"and such price shall be determined—

(*i*) in the case of foodgrains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (*3B*) of section 3;

(*ii*) in the case of sugar, in accordance with the provisions of sub-section (*3C*) of section 3; and

(*iii*) in the case of any other essential commodity, in accordance with the provisions of sub-section (*3*) of section 3.".

Amendment of section 7.

7. In section 7 of the principal Act,—

(*a*) in sub-section (*1*)—

(*i*) for the words and figure "If any person contravenes any order made under section 3", the words and figure "If any person contravenes, whether knowingly, intentionally or otherwise, any order made under section 3" shall be substituted;

(*ii*) in sub-clause (*ii*) of clause (*a*), for the words "three years", the words "five years" shall be substituted;

(*iii*) for the proviso to clause (*a*), the following proviso shall be substituted, namely:—

"Provided that in the case of a first offence, if the Court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded,

refrain from imposing a sentence of imprisonment and in the case of a second or subsequent offence, the Court shall impose a sentence of imprisonment and such imprisonment shall not be less than one month; and";

(*iv*) for clause (*b*) (excluding the proviso), the following shall be substituted, namely:—

"(*b*) any property in respect of which the order has been contravened or such part thereof as to the Court may seem fit including any packages, coverings or receptacles in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property, shall be forfeited to the Government:";

(*b*) in sub-section (*2*), for the words "three years", the words "five years" shall be substituted;

(*c*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Where a person having been convicted of an offence under sub-section (*1*) is again convicted of an offence under that sub-section for contravention of an order in respect of an essential commodity, the Court by which such person is convicted shall, in addition to any penalty which may be imposed on him under that sub-section, by order, direct that that person shall not carry on any business in that essential commodity for such period, not being less than six months, as may be specified by the Court in the order.".

Amendment of Section 9.

8. In section 9 of the principal Act, for the words "three years", the words "five years" shall be substituted.

Insertion of new section 10A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Offences to be cognizable and bailable.

"10A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this Act shall be cognizable and bailable.".

5 of 1898.

Continuance of Act 47 of 1964.

10. The duration of the Essential Commodities (Amendment) Act, 1964, is further extended for the period up to and including the 31st day of December, 1969, and accordingly that Act shall have effect subject to the modification that in section 1 of that Act, in sub-section (3), for the words, figures and letters "the 31st day of December, 1967", the words, figures and letters "the 31st day of December, 1969" shall be substituted.

Repeal and saving.

11. (*1*) The Essential Commodities (Amendment) Ordinance, 1967, and the Essential Commodities (Second Amendment) Ordinance, 1967, are hereby repealed. 6 of 1967. 8 of 1967.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act as if—

(*a*) clause (*b*) of section 2 and clause (*c*) of section 3 of this Act had come into force on the 21st day of October, 1967; and

(*b*) the rest of this Act [except clause (*a*) of section 3 and this section] had come into force on the 16th day of September, 1967:

Provided that during the period commencing on the 16th day of September, 1967, and ending with the 20th day of October, 1967, clause (*d*) of section 6 of this Act shall have effect subject to the modification that the brackets, figures and letter "(*ii*) in the case of sugar, in accordance with the provisions of sub-section (3C) of section 3;" had been omitted therefrom.

S. L. SHAKDHER.
Secretary.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, 1967.